

# CITY OF HAYWARD

## AGENDA REPORT

AGENDA DATE 01/23/01

AGENDA ITEM 3

WORK SESSION ITEM           

**TO:** Mayor and City Council

**FROM:** Director of Community and Economic Development

**SUBJECT:** Adoption of Resolution of Intent to Reimburse Expenditures From the Proceeds of Mortgage Revenue Bonds Financing the Purchase and Rehabilitation of Tennyson Gardens

### RECOMMENDATION:

It is recommended that the City Council:

- Adopt the attached resolution conditionally authorizing the issuance of \$7 million in mortgage revenue bonds to assist in the acquisition and rehabilitation of the Tennyson Gardens apartments;
- Authorize the City Manager to execute agreements for bond counsel services with Jones Hall, A Professional Law Corporation, and for financial advisor services with CSG, Inc.;
- Authorize the City Manager to execute all other implementing documents in connection with the proposed issuance.

### BACKGROUND:

Tennyson Gardens, a 96-unit development located at 981 West Tennyson Road, was constructed in 1971 and is comprised of four three-story residential buildings.

| Type of Units   | One Bedroom | Two Bedroom | Three Bedroom | Total |
|-----------------|-------------|-------------|---------------|-------|
| Number of Units | 24          | 50          | 22            | 96    |

Construction of Tennyson Gardens was originally financed using a loan from the U.S. Department of Housing and Urban Development (HUD). In 1990, the owners agreed to extend their Section 8 contract with HUD for 20 years until 2010. The current owners have indicated to HUD that they wish to repay their HUD loan prior to 2010, which will end their obligation to make units affordable to low-income families.

Since the project allowed households with incomes from below 50% to above 80% of median income, rent levels were set through an agreement between the owners and HUD. HUD has provided Section 8 assistance for all tenants whose incomes are at or below 50% of median. All

other tenants pay 30% of their income for rent or the Section 8 Existing Fair Market Rent, which ever is less.

TRI Capital, a San Francisco investment real estate brokerage firm, is in contract to purchase Tennyson Gardens. The total cost for purchase and rehabilitation of the project is approximately \$8.9 million. This includes \$6.9 million for acquisition and the remainder for rehabilitation and financing costs. TRI has requested that the City issue approximately \$7 million in multifamily mortgage revenue bonds to pay for the acquisition and rehabilitation of the complex. Additional financing will be from the syndication of Federal Low-Income Housing Tax Credits. In order to utilize Tax Credits, TRI is proposing that Jamboree Housing, Inc., a 501(c)(3) non-profit housing developer from Orange County be the "managing general partner" and TRI be the developer. TRI and Jamboree have formed Tennyson Preservation Limited Partnership to acquire, rehabilitate and manage Tennyson Gardens.

In order to obtain federal Low Income Tax Credits for the project, the new developer has proposed to rent only to households below 60% of median. (Household incomes that are 50% of median are \$30,400 per year for a household of three and, at 60% of median, \$36,500 for a household of three.) Under the Tax Credit scenario, an additional 42 units would be restricted to households at or below 60% of median which, under the current Regulatory Agreement, are set aside primarily for tenants whose incomes are in excess of 80% of median income.

Currently, only tenants with incomes at or below 50% of median income are receiving Section 8 assistance – their share of rent (30% of monthly income) varies from \$103 to \$700. Average rents for higher income tenants are \$810 per month. However, the developer has been working with the Alameda County Housing Authority and is eligible to obtain Section 8 assistance for all tenants in the project whose incomes are below 80% of median (\$48,700 for a family of three). A preliminary review of the current rent roll indicates that all of the current tenants have household incomes within this limit. If there are any tenants whose incomes are over the limit when TRI acquires the property, TRI and City staff will coordinate with ECHO and Eden Information and Referral to make special rental assistance services available for those tenants. TRI has proposed providing \$5,000 in relocation assistance to each household that exceeds the income limit.

#### *Occupancy Restrictions*

To date, all of the mortgage bond developments financed by the City of Hayward have been structured so that 20% of the units are restricted for occupancy by households with incomes at or below 50% of the area median for at least fifteen years. All other units are made available to the public at market rents.

TRI has elected to utilize a different option under the Tax Code. They have chosen to restrict occupancy of all units to households whose incomes are at or below 60% of the area median for a period of fifty-five years. However, the reduced rents will cause a short-term gap in project financing. Therefore, the developer is requesting an \$800,000 loan from the City that would be repaid within 60 months at 7.5% interest.

Monies for this loan could come from the City's HOME Investment Partnership funds. Over the past several years, the City has "banked" its annual allocation of HOME funds with Alameda

County in order to have sufficient funds for housing development. If the City were to make this loan, there would be \$1.4 million in HOME funds remaining in the City account.

In exchange for the City issuing the bonds and making the loan, TRI will enter into a Regulatory Agreement with the City. This Agreement will stipulate that, for a period of fifty-five years, 66 units will be affordable to families earning no more than 60% of the area median income and that 28 units will be affordable to families earning no more than 50% of the area median income.

#### *Proposed Rehabilitation*

This development has been poorly maintained over the past thirty years. Therefore, there will be both interior and exterior rehabilitation. The proposed building rehabilitation will include, but not be limited to: repairing siding and repainting buildings, checking and repairing roofs, repairing bridge walkways between buildings, repairing and upgrading building elevators, replacing damaged drywall, refurbishing unit interiors and replacing appliances. In addition, TRI will install a children's play area with new play equipment and refurbish the Community Room for the provision of services to residents, including a homework club for school age children. The Regulatory Agreement and the Loan Agreement will specifically require TRI to maintain Tennyson Gardens in substantially the same rehabilitated condition during the term of the fifty-five year agreement. City staff monitor mortgage bond-financed projects annually. As a part of the monitoring activities staff will conduct an inspection of the property to ensure compliance with the maintenance requirements.

Federal tax law requires that at least fifteen percent (15%) of the bond proceeds for the acquisition and rehabilitation of existing rental projects are set aside for the costs of rehabilitation. In this instance, at least 32% of the bond proceeds will be used to rehabilitate the development.

In addition to upgrading the physical structure, TRI is proposing to significantly upgrade the property management and maintenance. Currently, there appears to be one onsite property manager and one onsite maintenance worker. At a minimum, property management and maintenance staff will be doubled. Jamboree Housing, Inc. will provide services such as information and referral to health, employment, and training activities; facilitate on-site provision of budgeting, financial planning, parenting, stranger-danger, community safety, health education programs and after-school programs, including but not limited to: youth leadership and enrichment programs for Tennyson Garden's residents.

#### *Project Rents Stabilized*

In addition to the revenue from the sale of mortgage bonds, proceeds from the syndication of tax credits will help finance the project. Tax Credit regulations require rents that are lower than those allowed in the mortgage bond program. For the next fifty-five years, the percentage increase in rents allowed for this project will be equal to the percentage increase in HUD median incomes. Over the past five years, that increase has been approximately four percent per year. This is considerably lower than the annual increase in market rents throughout Hayward and the East Bay.

Staff is recommending that Council approve the resolution, conditionally authorizing the sale of bonds for this project, because the appearance of the development will be significantly improved,

the apartments will be upgraded, the tenant amenities will be substantially upgraded, and property management, maintenance and tenant safety will be significantly improved.

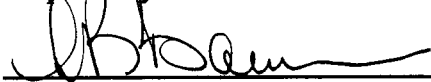
*Process for Obtaining a Bond Allocation*

The issuance of multifamily mortgage revenue bonds in the State of California is subject to an annual Statewide maximum or cap. Authority to issue bonds is granted by the California Debt Limit Allocation Committee (CDLAC). An application must be submitted to CDLAC for each project. The allocation awarded to each project is then deducted from the annual cap. The amount of the cap for 2001 will be established at the first CDLAC hearing scheduled for late January 2001. Given that mortgage bonds must compete with all other forms of bonds, including industrial development bonds, the City's financial adviser recommends pursuing an allocation at the first meeting of the year.

To meet this hearing date, applications for an allocation are due to CDLAC by January 24, 2001. A component of the application is a resolution from the issuing authority. A resolution is attached. City staff, with the assistance of bond counsel and the City's financial adviser is working with the developer to structure a bond issue that meets the needs of the development and provides appropriate guarantees to the City. The actual issuance of the bonds would, of course, be the subject of City Council review and approval. Mortgage revenue bonds issued by the City are secured solely by the revenue from the project and in no way pledge the full faith and credit of the City.

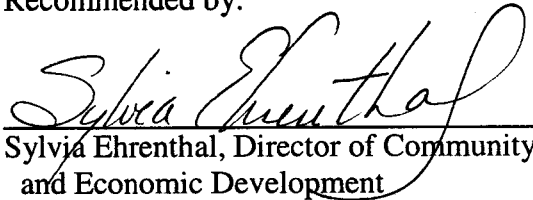
Staff has inspected this complex and has researched TRI's capacity to complete the project. Based on TRI's work on similar projects in other jurisdictions, staff has determined that TRI has the ability to carry out the rehabilitation and manage and maintain the project so that it will be an asset to the City.

Prepared by:



Ann R. Bauman, Neighborhood and Economic  
Development Manager

Recommended by:



Sylvia Ehrenthal, Director of Community  
and Economic Development

Approved by:



Jesús Armas, City Manager

Attachment: Resolution

# DRAFT

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11/8/01

## HAYWARD CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

### RESOLUTION DECLARING INTENTION TO REIMBURSE EXPENDITURES FROM THE PROCEEDS OF TAX-EXEMPT OBLIGATIONS AND DIRECTING CERTAIN ACTIONS REGARDING THE PURCHASE AND REHABILITATION OF TENNYSON GARDENS, A MULTIFAMILY DEVELOPMENT

WHEREAS, the City of Hayward (the "City") intends to issue tax-exempt obligations (the "Obligations") for the purpose, among other things, of making a loan to Tennyson Preservation Limited Partnership, a California limited partnership, California (the "Developer"), the proceeds of which shall be used by the Developer to finance the acquisition, rehabilitation and development of a multifamily housing facility located at 981 West Tennyson Road in the City of Hayward, California, and commonly known as the Tennyson Gardens Apartments (the "Project"); and

WHEREAS, the City is authorized by Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State of California (the "Law") to issue and sell revenue bonds for the purpose of financing the acquisition, rehabilitation and development of multifamily rental housing facilities to be occupied in part by very low income tenants; and

WHEREAS, United States Income Tax Regulations section 1.103-18 provides generally that proceeds of tax-exempt debt are not deemed to be expended when such proceeds are used for reimbursement of expenditures made prior to the date of issuance of such debt unless certain procedures are followed, among which is a requirement that (with certain exceptions), prior to the payment of any such expenditure, the issuer must declare an intention to reimburse such expenditure (the "Tax Law Reimbursement Provisions"); and

WHEREAS, the Obligations will be considered to be "qualified exempt facility bonds" under Section 142(a) of the Internal Revenue Code of 1986, as amended (the "Code"), and Section 147(f) of the Code requires that the "applicable elected representative" with respect to the City hold a public hearing on and approve the issuance of the Obligations; and

WHEREAS, this City Council is the elected legislative body of the City; and

WHEREAS, a notice of public hearing in a newspaper of general circulation in the City has been published, to the effect that a public hearing would be held by this City Council on January 23, 2001, regarding the issuance of the Obligations by the City and the nature and location of the Project; and

WHEREAS, this City Council held said public hearing on such date, at which time an opportunity was provided to present arguments both for and against the issuance of such Obligations and the nature and location of the Project; and

WHEREAS, it is in the public interest and for the public benefit that the City declare its official intent to reimburse the expenditures referenced herein.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward DECLARES and ORDERS as follows:

1. The City intends to issue the Obligations for the purpose of paying the costs of financing the acquisition, rehabilitation and development of the Project.
2. The City hereby declares that it reasonably expects that a portion of the proceeds of the Obligations will be used for reimbursement of expenditures for the acquisition, rehabilitation and development of the Project that are paid before the date of initial execution and delivery of the Obligations.
3. The maximum amount of proceeds of the Obligations to be used for reimbursement of expenditures for the acquisition, rehabilitation and development of the Project that are paid before the date of initial execution and delivery of the Obligations is \$7,000,000.
4. The foregoing declaration is consistent with the budgetary and financial circumstances of the City in that there are no funds (other than proceeds of the Obligations) that are reasonably expected to be (i) reserved, (ii) allocated or (iii) otherwise set aside, on a long-term basis, by or on behalf of the City, or any public entity controlled by the City, for the expenditures for the acquisition, rehabilitation and development of the Project that are expected to be reimbursed from the proceeds of the Obligations.
5. The Developer shall be responsible for the payment of all present and future costs in connection with the issuance of the Obligations, including, but not limited to, any fees and expenses incurred by the City in anticipation of the issuance of the Obligations, the City's financing fee with respect to the issuance of the Obligations, the City's annual administration fee with respect to administering the provisions of a regulatory agreement with respect to the Project, the cost of printing any official statement, rating agency costs, bond counsel fees and expenses, underwriting discount and costs, trustee fees and expense, and the costs of printing the Obligations. The payment of the principal, redemption premium, if any, and purchase price of and interest on the Obligations shall be solely the responsibility of the Developer. The Obligations shall not constitute a debt or obligation of the City.
6. This City Council hereby further determines that it is appropriate for the City to issue the Obligations to finance the acquisition, rehabilitation and development of the Project.

7. The law firm of Jones Hall, A Professional Law Corporation, is hereby named as bond counsel to the City in connection with the issuance of the Obligations. The financial advisory firm of CSG, Inc. is hereby named as financial advisor to the City in connection with the issuance of the Obligations. The fees and expense of the bond counsel and the financial advisor are to be paid solely from the proceeds of the Obligations or directly by the Developer.

8. The City Manager is hereby authorized, for and in the name of and on behalf of the City, to make an application to the California Debt Limit Allocation Committee for an allocation of private activity bonds for the financing of the Project.

9. The adoption of this Resolution is solely for the purpose of meeting the requirements of the Tax Law Reimbursement Provisions and the Code and shall not be construed in any other manner, and such adoption shall not obligate without further formal action to be taken by this City Council including, but not limited to, the approval of the financing documents by the City Council by resolution, (i) the City to provide financing to the Developer for the acquisition, rehabilitation and development of the Project or to issue the Obligations for purposes of such financing; or (ii) the City, or any department of the City, to approve any application or request for, or take any other action in connection with, any environmental, General Plan, zoning or any other permit or other action necessary for the acquisition, rehabilitation, development or operation of the Project.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2001

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward